

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAFAEL CERVANTES (1) and ERICA
GODINEZ (2),

Defendants.

No. 1:16-CR-2006-EFS-1
1:16-CR-2006-EFS-2

**ORDER GRANTING DEFENDANTS'
MOTIONS TO CONTINUE**

AMENDED¹ CASE MANAGEMENT ORDER

Before the Court, without oral argument, are Defendant Rafael Cervantes' Motion to Continue Pretrial and Trial and Extend Deadline to File Pretrial Motions, ECF No. 63, and Defendant Erica Godinez's Motion to Continue and to Declare Case Complex, ECF No. 69, and Motion for Joinder, ECF No. 70. Counsel for Defendant Cervantes, Rick Hoffman, and counsel for Defendant Godinez, William Schuler III, request a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Mr. Schuler III also asks the Court to declare the case complex as the alleged criminal activity, and related investigation thereof, spans four years, multiple

¹ This Order amends the deadlines in the Court's March 7, 2016 Case Management Order, ECF No. 68.

1 defendants, and activity in multiple states. Defendant Cervantes
2 supports counsel's request for a trial continuance for the articulated
3 reasons. ECF No. 64. Assistant U.S. Attorney Benjamin Seal, appearing
4 on behalf of the U.S. Attorney's Office (USAO), does not oppose the
5 trial continuance request. ECF No. 65.

6 The Indictment was filed on February 9, 2016. Defense counsel
7 appeared for Defendant Cervantes on February 23, 2016, ECF No. 41; and
8 defense counsel appeared for Defendant Godinez on February 25, 2016,
9 ECF No. 51. This is the first request for a trial continuance.

10 To ensure defense counsel are afforded adequate time to review
11 discovery, prepare any pretrial motions, conduct investigation, and
12 prepare for trial, the Court grants the motions, extends the pretrial
13 motion deadline, and resets the currently scheduled pretrial conference
14 and trial dates. The Court finds that Defendant Cervantes' continuance
15 request is knowing, intelligent, and voluntary, and that the ends of
16 justice served by granting a continuance outweigh the best interest of
17 the public and Defendants in a speedy trial. The delay resulting from
18 the continuance motions is therefore excluded under the Speedy Trial
19 Act for both Defendants whom are joined for trial.

20 The Court also declares the case complex as it involves a number
21 of Defendants and the alleged criminal activity spanned a number of
22 years and in a number of states. See 18 U.S.C. § 3161(h)(6)(B)(ii).
23 Further, the Court grants Defendant Godinez's request to join in the
24 pretrial motions of co-Defendants; however, Defendant Godinez must
25 specifically join in trial-continuance motions (or so move for a trial
26 continuance herself).

1 Having considered the parties' proposed case schedule, ECF No. 65,
2 the Court now enters the following Amended Case Management Order. All
3 counsel are expected to carefully read and abide by this Order and such
4 provisions of the prior CMO, ECF No. 68, which have not been superseded
5 hereby. The Court will grant relief from the requirements in this Order
6 only upon motion and good cause shown.

7 Accordingly, **IT IS HEREBY ORDERED:**

8 **1.** Defendant Cervantes' Motion to Continue Pretrial and Trial
9 and Extend Deadline to File Pretrial Motions, **ECF No. 63**, is
10 **GRANTED.**

11 **2.** Defendant Godinez's Motion to Continue and to Declare Case
12 Complex, **ECF No. 69**, and Motion for Joinder, **ECF No. 70**, are
13 **GRANTED.**

14 **3.** The Court finds, given defense counsel's need for time to
15 review discovery, prepare any pretrial motions, conduct
16 investigation, and prepare for trial, that failing to grant
17 a continuance would result in a miscarriage of justice and
18 would deny defense counsel the reasonable time necessary for
19 effective preparation, taking into account the exercise of
20 due diligence, in this complex case. See 18 U.S.C.
21 § 3161(h)(7)(B)(i), (ii). The Court, therefore, finds the
22 ends of justice served by granting a continuance in this
23 matter outweigh the best interest of the public and
24 Defendants, who are joined for trial, in a speedy trial. See
25 18 U.S.C. § 3161(h)(6) & (7)(A).
26

1 **4. Original CMO.** Counsel must review the procedures in the
2 original March 7, 2016 CMO, ECF No. 68, and abide by those
3 procedures except for the new compliance deadlines in the
4 following Summary of Amended Deadlines.

5 **5. Pretrial Conference**

6 **A.** The pretrial conference is **RESET** to **June 22, 2016**, at
7 **10:00 a.m.** in **YAKIMA**. At this hearing, the Court will
8 hear **ALL** pretrial motions.

9 **B.** All Pretrial Conferences are scheduled to last no more
10 than **thirty (30) minutes**, with each side allotted
11 **fifteen (15) minutes** to present their own motions and
12 resist motions by opposing counsel. If any party
13 anticipates requiring longer than fifteen minutes, that
14 party must notify the Courtroom Deputy at least seven
15 (7) days prior to the hearing. Any party who fails to
16 provide this notice will be limited to fifteen (15)
17 minutes.

18 **6. Trial.** The Court **SETS** this matter for jury trial on **July**
19 **11, 2016**, at **9:30 a.m.** in **YAKIMA**. Counsel and Defendants
20 shall be prepared to meet with the Court at least thirty (30)
21 minutes prior to the commencement of the trial.

22 **7.** Pursuant to 18 U.S.C. § 3161(h)(6) & (7)(B)(i) and (iv), the
23 Court **DECLARES EXCLUDABLE** from **Speedy Trial Act** calculations
24 the period from **March 4, 2016**, the date defense counsel moved
25 to continue, through **July 11, 2016**, the new trial date, as
26

the period of delay granted for adequate preparation by
counsel for both Defendants, whom are joined for trial.

8. Summary of Deadlines

Rule 16 expert summaries produced to other parties and emailed to Court:	
USAO's Experts:	May 24, 2016
Defendants Experts:	May 25, 2016
USAO's Rebuttal Experts:	May 31, 2016
All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	June 1, 2016
PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	June 22, 2016 10:00 A.M. - YAKIMA
CIs' identities and willingness to be interviewed disclosed to Defendants (if applicable)	June 24, 2016
Grand jury transcripts produced to Defendants	June 24, 2016
Exhibit & Witness lists filed and emailed to the Court	June 28, 2016
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	June 28, 2016
Exhibit binders delivered to the Court	July 1, 2016
Exhibits delivered to all other parties	July 1, 2016
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	June 28, 2016
Trial notices filed with the Court	June 28, 2016
Technology readiness meeting (in-person)	July 1, 2016
JURY TRIAL	July 11, 2016 9:30 A.M. - YAKIMA

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

DATED this 8th day of March 2016.

s/Edward F. Shea
EDWARD F. SHEA
Senior United States District Judge